

## Office of the Secretary, Interior

## § 4.1272

within 5 working days of the receipt of the application for temporary relief.

(9) If at any time after the initiation of this expedited procedure, the applicant requests a delay or acts in a manner so as to frustrate the expeditious nature of this proceeding or fails to supply the information required by § 4.1263 such action shall constitute a waiver of the 5-day requirement of section 525(c) of the act.

[43 FR 34386, Aug. 3, 1978, as amended at 49 FR 7565, Mar. 1, 1984; 59 FR 1489, Jan. 11, 1994]

### § 4.1267 Appeals.

(a) Any party desiring to appeal a decision of an administrative law judge granting temporary relief may appeal to the Board.

(b) Any party desiring to appeal a decision of an administrative law judge denying temporary relief may appeal to the Board or, in the alternative, may seek judicial review pursuant to section 526(a) of the act.

(c) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

[43 FR 34386, Aug. 3, 1978, as amended at 45 FR 50753, July 31, 1980]

### APPEALS TO THE BOARD FROM DECISIONS OR ORDERS OF ADMINISTRATIVE LAW JUDGES

### § 4.1270 Petition for discretionary review of a proposed civil penalty.

(a) Any party may petition the Board to review an order or decision by an administrative law judge disposing of a civil penalty proceeding under § 4.1150.

(b) A petition under this section shall be filed on or before 30 days from the date of receipt of the order or decision sought to be reviewed and the time for filing may not be extended.

(c) A petitioner under this section shall list the alleged errors of the administrative law judge and shall attach a copy of the order or decision sought to be reviewed.

(d) Any party may file with the Board a response to the petition for review within 10 days of receipt of a copy of such petition.

(e) Not later than 30 days from the filing of a petition under this section, the Board shall grant or deny the petition in whole or in part.

(f) If the petition is granted, the rules in §§ 4.1273 through 4.1277 are applicable and the Board shall use the point system and conversion table contained in 30 CFR part 723 in recalculating assessments; however, the Board shall have the same authority to waive the civil penalty formula as that granted to the administrative law judges in § 4.1157(b)(1). If the petition is denied, the decision of the administrative law judge shall be final for the Department, subject to 43 CFR 4.5.

### § 4.1271 Notice of appeal.

(a) Any aggrieved party may file a notice of appeal from an order or decision of an administrative law judge disposing of a proceeding under §§ 4.1160 through 4.1171, 4.1200 through 4.1205, 4.1260 through 4.1267, 4.1290 through 4.1296, and 4.1350 through 4.1356.

(b) Except in an expedited review proceeding under § 4.1180, or in a suspension or revocation proceeding under § 4.1190, a notice of appeal shall be filed with the Board on or before 30 days from the date of receipt of the order or decision sought to be reviewed and the time for filing may not be extended.

[43 FR 34386, Aug. 3, 1978, as amended at 59 FR 1489, Jan. 11, 1994]

### § 4.1272 Interlocutory appeals.

(a) If a party has sought certification under § 4.1124, that party may petition the Board for permission to appeal from an interlocutory ruling by an administrative law judge.

(b) A petition under this section shall be in writing and not exceed 10 pages in length.

(c) If the correctness of the ruling sought to be reviewed involves a controlling issue of law the resolution of which will materially advance final disposition of the case, the Board may grant the petition.

(d) Upon granting a petition under this section, the Board may dispense with briefing or issue a briefing schedule.

(e) Unless the Board or the administrative law judge orders otherwise, an interlocutory appeal shall not operate as a stay of further proceedings before the judge.